

SENATE

STATE OF MINNESOTA

EIGHTY-EIGHTH LEGISLATURE

S.F. No. 1295

(SENATE AUTHORS: LATZ, Pappas and Goodwin)

DATE	D-PG	OFFICIAL STATUS
03/11/2013	780	Introduction and first reading Referred to Commerce

1.1

A bill for an act

1.2

relating to insurance; regulating certain coverages; prohibiting certain exclusions;

1.3

modifying no-fault benefits and coverages, arbitration and health claims appeals,

1.4

and provider liens; amending Minnesota Statutes 2012, sections 65B.43,

1.5

subdivision 5; 65B.44, subdivisions 2, 3, 4, 5, 6; 65B.47, subdivisions 4, 5;

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65B.49, subdivision 3a; 65B.525, subdivision 1; 65B.54, subdivision 2, by

1.7

adding subdivisions; 65B.56, subdivision 1; 72A.327; proposing coding for new

1.8

law in Minnesota Statutes, chapter 60A.

1.9

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MINNESOTA:

1.10

Section 1. [60A.0812] PROHIBITED EXCLUSION; CERTAIN PROPERTY

1.11

AND CASUALTY POLICIES.

1.12

An automobile insurance policy, personal excess liability policy, or personal

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umbrella policy must not contain an exclusion of, or limitation on, liability for damages

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for bodily injury solely because the injured person is a resident or member of the insured's

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household, or is related to the insured by blood or marriage.

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EFFECTIVE DATE. This section is effective January 1, 2014, and applies to

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policies issued, renewed, or continued on or after that date.

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Sec. 2. Minnesota Statutes 2012, section 65B.43, subdivision 5, is amended to read:

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Subd. 5. **Insured.** "Insured" means an insured under a plan of reparation security as

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provided by sections 65B.41 to 65B.71, including the named insured and the following

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persons not identified by name as an insured while (a) residing in the same household

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with the named insured and (b) not identified by name in any other contract for a plan of

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reparation security complying with sections 65B.41 to 65B.71 as an insured:

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(1) a spouse,

(2) other relative of a named insured, or
(3) a minor in the custody of a named insured or of a relative residing in the same household with a named insured.

A person resides in the same household with the named insured if that person's home is usually in the same family unit, even though temporarily living elsewhere.

"Insured" does not include an assignment of benefits assignee.

Sec. 3. Minnesota Statutes 2012, section 65B.44, subdivision 2, is amended to read:

Subd. 2. **Medical expense benefits.** (a) Medical expense benefits shall reimburse all reasonable expenses for necessary:

(1) medical, surgical, x-ray, optical, dental, chiropractic, and rehabilitative services, including prosthetic devices and medically prescribed equipment by a licensed physician;

(2) prescription drugs;

(3) ambulance and all other transportation expenses incurred in traveling to receive other covered medical expense benefits;

(4) sign interpreting and language translation services, other than such services provided by a family member of the patient, related to the receipt of medical, surgical, x-ray, optical, dental, chiropractic, hospital, extended care, nursing, and rehabilitative services; and

(5) hospital, extended care, and nursing services.

(b) Hospital room and board benefits may be limited, except for intensive care facilities, to the regular daily semiprivate room rates customarily charged by the institution in which the recipient of benefits is confined.

(c) Such benefits shall also include necessary remedial treatment and services recognized and permitted under the laws of this state for an injured person who relies upon spiritual means through prayer alone for healing in accordance with that person's religious beliefs.

(d) Medical expense loss includes medical expenses accrued prior to the death of a person notwithstanding the fact that benefits are paid or payable to the decedent's survivors.

(e) Medical expense benefits for rehabilitative services shall be subject to the provisions of section 65B.45.

(f) Providers of goods and services for which a medical expense benefit claim is submitted shall notify the appropriate reparation obligor of the date the services were commenced or the goods were first provided within 30 days of determining the identity of the reparation obligor, but in any event not later than 60 days from the date services were commenced or goods were first provided.

3.1 (g) Once the reparations obligor has been established, all bills must be submitted to
3.2 the reparations obligor not later than 60 days from the date of service.

3.3 Sec. 4. Minnesota Statutes 2012, section 65B.44, subdivision 3, is amended to read:

3.4 Subd. 3. **Disability and income loss benefits.** (a) Disability and income loss
3.5 benefits shall provide compensation for 85 percent of the injured person's loss of present
3.6 and future gross income from inability to work proximately caused by the nonfatal
3.7 injury subject to a maximum of ~~\$250~~ \$500 per week. Loss of income includes the costs
3.8 incurred by a self-employed person to hire substitute employees to perform tasks which
3.9 are necessary to maintain the income of the injured person, which are normally performed
3.10 by the injured person, and which cannot be performed because of the injury.

3.11 (b) If the injured person is unemployed at the time of injury and is receiving or is
3.12 eligible to receive unemployment benefits under chapter 268, but the injured person loses
3.13 eligibility for those benefits because of inability to work caused by the injury, disability
3.14 and income loss benefits shall provide compensation for the lost benefits in an amount
3.15 equal to the unemployment benefits which otherwise would have been payable, subject to
3.16 a maximum of ~~\$250~~ \$500 per week.

3.17 (c) Compensation under this subdivision shall be reduced by any income from
3.18 substitute work actually performed by the injured person or by income the injured person
3.19 would have earned in available appropriate substitute work which the injured person was
3.20 capable of performing but unreasonably failed to undertake.

3.21 (d) For the purposes of this section "inability to work" means disability which
3.22 prevents the injured person from engaging in any substantial gainful occupation or
3.23 employment on a regular basis, for wage or profit, for which the injured person is or may
3.24 by training become reasonably qualified. If the injured person returns to employment and
3.25 is unable by reason of the injury to work continuously, compensation for lost income shall
3.26 be reduced by the income received while the injured person is actually able to work. The
3.27 weekly maximums may not be prorated to arrive at a daily maximum, even if the injured
3.28 person does not incur loss of income for a full week.

3.29 (e) For the purposes of this section, an injured person who is "unable by reason of
3.30 the injury to work continuously" includes, but is not limited to, a person who misses time
3.31 from work, including reasonable travel time, and loses income, vacation, or sick leave
3.32 benefits, to obtain medical treatment for an injury arising out of the maintenance or use
3.33 of a motor vehicle.

3.34 Sec. 5. Minnesota Statutes 2012, section 65B.44, subdivision 4, is amended to read:

4.1 Subd. 4. **Funeral and burial expenses.** Funeral and burial benefits shall be
4.2 reasonable expenses not in excess of ~~\$2,000~~ \$5,000, including expenses for cremation or
4.3 delivery under the Darlene Luther Revised Uniform Anatomical Gift Act, chapter 525A.

4.4 Sec. 6. Minnesota Statutes 2012, section 65B.44, subdivision 5, is amended to read:

4.5 Subd. 5. **Replacement service and loss.** Replacement service loss benefits shall
4.6 ~~reimburse~~ provide payment for all reasonable expenses ~~reasonably~~ incurred by or on
4.7 behalf of the nonfatally injured person in obtaining usual and necessary substitute services
4.8 ~~in lieu of those that performed by a nonhousehold member~~, had the injured person not
4.9 been injured, the injured person would have performed not for income but for direct
4.10 personal benefit or for the benefit of the injured person's household; ~~if the nonfatally~~
4.11 ~~injured person normally, as a full time responsibility, provides care and maintenance of a~~
4.12 ~~home with or without children, the benefit to be provided under this subdivision shall be~~
4.13 ~~the reasonable value of such care and maintenance or the reasonable expenses incurred in~~
4.14 ~~obtaining usual and necessary substitute care and maintenance of the home, whichever is~~
4.15 ~~greater.~~ These benefits shall be subject to a maximum of \$200 per week. All replacement
4.16 services loss sustained on the date of injury and the first seven days thereafter is excluded
4.17 in calculating replacement services loss.

4.18 Sec. 7. Minnesota Statutes 2012, section 65B.44, subdivision 6, is amended to read:

4.19 Subd. 6. **Survivors economic loss benefits.** Survivors economic loss benefits, in
4.20 the event of death occurring within one year of the date of the accident, caused by and
4.21 arising out of injuries received in the accident, are subject to a maximum of ~~\$200~~ \$500
4.22 per week and shall cover loss accruing after decedent's death of contributions of money
4.23 or tangible things of economic value, not including services, that surviving dependents
4.24 would have received from the decedent for their support during their dependency had the
4.25 decedent not suffered the injury causing death.

4.26 For the purposes of definition under sections 65B.41 to 65B.71, the following
4.27 described persons shall be presumed to be dependents of a deceased person: (a) a wife
4.28 is dependent on a husband with whom she lives at the time of his death; (b) a husband
4.29 is dependent on a wife with whom he lives at the time of her death; (c) any child while
4.30 under the age of 18 years, or while over that age but physically or mentally incapacitated
4.31 from earning, is dependent on the parent with whom the child is living or from whom the
4.32 child is receiving support regularly at the time of the death of such parent; or (d) an actual
4.33 dependent who lives with the decedent at the time of the decedent's death. Questions of

the existence and the extent of dependency shall be questions of fact, considering the support regularly received from the deceased.

Payments shall be made to the dependent, except that benefits to a dependent who is a child or an incapacitated person may be paid to the dependent's surviving parent or guardian. Payments shall be terminated whenever the recipient ceases to maintain a status which if the decedent were alive would be that of dependency.

Sec. 8. Minnesota Statutes 2012, section 65B.47, subdivision 4, is amended to read:

Subd. 4. **Other cases.** In all other cases, the following priorities apply:

(a) The security for payment of basic economic loss benefits applicable to injury to an insured is the security under which the injured person is an insured.

(b) The security for payment of basic economic loss benefits applicable to injury to the driver or other occupant of an involved motor vehicle who is not an insured is the security covering that vehicle.

(c) The security for payment of basic economic loss benefits applicable to injury to a person not otherwise covered who is not the driver or other occupant of an involved motor vehicle is the security covering any involved motor vehicle. An unoccupied parked vehicle is not an involved motor vehicle unless it was parked so as to cause unreasonable risk of injury.

(d) The security for payment of basic economic loss benefits applicable to a person who is injured in or by a vehicle listed in section 168.012, subdivision 1, paragraph (a), is entitled to security under which the injured person is an insured.

Sec. 9. Minnesota Statutes 2012, section 65B.47, subdivision 5, is amended to read:

Subd. 5. **Contribution.** If two or more obligations to pay basic economic loss benefits are applicable to an injury under the priorities set out in this section, benefits are payable only once and the reparation obligor against whom a claim is asserted ~~shall~~ must process and pay the claim as if wholly responsible, but the reparation obligor is thereafter entitled to recover contribution pro rata for the basic economic loss benefits paid and the costs of processing the claim. A reparation obligor failing to comply with this subdivision is liable for interest as prescribed in section 65B.54. Where contribution is sought among reparation obligors responsible under subdivision 4, clause (c), proration shall be based on the number of involved motor vehicles.

Sec. 10. Minnesota Statutes 2012, section 65B.49, subdivision 3a, is amended to read:

6.1 Subd. 3a. **Uninsured and underinsured motorist coverages.** (1) No plan of
6.2 reparation security may be renewed, delivered or issued for delivery, or executed in this
6.3 state with respect to any motor vehicle registered or principally garaged in this state
6.4 unless separate uninsured and underinsured motorist coverages are provided therein. Each
6.5 coverage, at a minimum, must provide limits of \$25,000 because of injury to or the death
6.6 of one person in any accident and \$50,000 because of injury to or the death of two or more
6.7 persons in any accident. In the case of injury to, or the death of, two or more persons in
6.8 any accident, the amount available to any one person must not exceed the coverage limit
6.9 provided for injury to, or the death of, one person in any accident.

6.10 (2) Every owner of a motor vehicle registered or principally garaged in this state shall
6.11 maintain uninsured and underinsured motorist coverages as provided in this subdivision.

6.12 (3) No reparation obligor is required to provide limits of uninsured and underinsured
6.13 motorist coverages in excess of the bodily injury liability limit provided by the applicable
6.14 plan of reparation security.

6.15 (4) No recovery shall be permitted under the uninsured and underinsured motorist
6.16 coverages of this section for basic economic loss benefits paid or payable, or which would
6.17 be payable but for any applicable deductible for policies of coverage above the minimum
6.18 limits provided by this chapter.

6.19 (5) If at the time of the accident the injured person is occupying a motor vehicle,
6.20 the limit of liability for uninsured and underinsured motorist coverages available to the
6.21 injured person is the limit specified for that motor vehicle. However, if the injured person
6.22 is occupying a motor vehicle of which the injured person is not an insured, the injured
6.23 person may be entitled to excess insurance protection afforded by a policy in which the
6.24 injured party is otherwise insured. The excess insurance protection is limited to the extent
6.25 of covered damages sustained, and further is available only to the extent by which the limit
6.26 of liability for like coverage applicable to any one motor vehicle listed on the automobile
6.27 insurance policy of which the injured person is an insured exceeds the limit of liability of
6.28 the coverage available to the injured person from the occupied motor vehicle.

6.29 If at the time of the accident the injured person is not occupying a motor vehicle or
6.30 motorcycle, the injured person is entitled to select any one limit of liability for any one
6.31 vehicle afforded by a policy under which the injured person is insured.

6.32 (6) Regardless of the number of policies involved, vehicles involved, persons
6.33 covered, claims made, vehicles or premiums shown on the policy, or premiums paid, in no
6.34 event shall the limit of liability for uninsured and underinsured motorist coverages for two
6.35 or more motor vehicles be added together to determine the limit of insurance coverage
6.36 available to an injured person for any one accident.

(7) The uninsured and underinsured motorist coverages required by this subdivision do not apply to bodily injury of the insured while occupying a motor vehicle owned by the insured, unless the occupied vehicle is an insured motor vehicle.

(8) The uninsured and underinsured motorist coverages required by this subdivision do not apply to bodily injury of the insured while occupying a motorcycle owned by the insured.

Sec. 11. Minnesota Statutes 2012, section 65B.525, subdivision 1, is amended to read:

Subdivision 1. **Mandatory submission to binding arbitration.** (a) Except as otherwise provided in section 72A.327, the Supreme Court and the several courts of general trial jurisdiction of this state shall by rules of court or other constitutionally allowable device, provide for the mandatory submission to binding arbitration of all cases at issue where the claim at the commencement of arbitration is in an amount of \$10,000 or less against any insured's reparation obligor for no-fault benefits or comprehensive or collision damage coverage.

(b) If assigned claims against a reparation obligor are submitted pursuant to this section, the aggregate amount of the claims is considered to be one claim for purposes of the jurisdictional dollar limitation in paragraph (a). Aggregated or consolidated claims in excess of \$10,000 must be recovered in an action in district court.

Sec. 12. Minnesota Statutes 2012, section 65B.54, subdivision 2, is amended to read:

Subd. 2. **Interest on overdue payments.** Overdue payments shall bear simple interest at the rate of 15 percent per annum. Once an obligor has denied benefits from a specific provider, made a blanket denial of a type of benefits, or issued a general denial of benefits, interest is due on all overdue benefits within the scope of the denial, regardless of whether the insured or provider continues to provide ongoing proof of the fact and amount of each additional loss incurred.

Sec. 13. Minnesota Statutes 2012, section 65B.54, is amended by adding a subdivision to read:

Subd. 7. **Wrongful provider liens.** A licensed health care provider who makes, files, perfects, or records a wrongful lien against the property of an insured for unpaid medical expense benefits is liable to the insured for \$1,000 or actual damages, whichever is greater, and for reasonable attorney fees and costs.

For purposes of this subdivision, "wrongful lien" means a document that the health care provider knows, or has reason to know:

(1) is groundless;
(2) contains a material misstatement or false claim; or
(3) attempts to preserve and enforce a legal interest or right in the insured's property
when none is provided by law.

Sec. 14. Minnesota Statutes 2012, section 65B.54, is amended by adding a subdivision to read:

Subd. 8. **Health care provider claims arbitration limited.** A health care provider shall not submit any medical benefit claims to arbitration pursuant to section 65B.525 as an assignment of benefits assignee.

Sec. 15. Minnesota Statutes 2012, section 65B.56, subdivision 1, is amended to read:

Subdivision 1. ~~Medical~~ Physical examinations or evaluations and discovery of condition of claimant. Any person with respect to whose injury benefits are claimed under a plan of reparation security shall, upon request of the reparation obligor from whom recovery is sought, submit to a physical examination or evaluation by a physician or ~~physicians~~ licensed provider or other providers selected by the obligor as may reasonably be required. The person being examined is entitled upon request to have a nonmedical observer present at any examination done pursuant to this subdivision.

The costs of any examinations requested by the obligor shall be borne entirely by the requesting obligor. Such examinations shall be conducted within the city, town, or statutory city of residence of the injured person. Examinations must not be conducted in hotel or motel facilities. If there is no qualified ~~physician~~ examiner to conduct the examination within the city, town, or statutory city of residence of the injured person, then such examination shall be conducted at another place of the closest proximity to the injured person's residence. If the injured person has moved out of Minnesota, the examination may take place at the reparation obligor's expense in or near the last city of residence within Minnesota. Obligor's are authorized to include reasonable provisions in policies for mental and physical examination of those injured persons.

If requested by the person examined, a party causing an examination to be made shall deliver to the examinee a copy of every written report concerning the examination rendered by an examining physician to that person, at least one of which reports must set out in detail the findings and conclusions of ~~such examining physician~~ the examiner.

An injured person shall also do all things reasonably necessary to enable the obligor to obtain medical reports and other needed information to assist in determining the nature and extent of the injured person's injuries and loss, and the medical treatment

received. If the claimant refuses to cooperate in responding to requests for examination and information as authorized by this section, evidence of such noncooperation shall be admissible in any suit or arbitration filed for damages for such personal injuries or for the benefits provided by sections 65B.41 to 65B.71.

The provisions of this section apply before and after the commencement of suit.

Sec. 16. Minnesota Statutes 2012, section 72A.327, is amended to read:

72A.327 HEALTH CLAIMS; RIGHTS OF APPEAL.

(a) An insured whose claim for medical benefits under chapter 65B is denied because the treatment or services for which the claim is made is claimed to be experimental, investigative, not medically necessary, or otherwise not generally accepted by licensed health care providers and for which the insured has financial responsibility in excess of applicable co-payments and deductibles may appeal the denial to the commissioner. For purposes of this section, "insured" does not include an assignment of benefits assignee.

(b) This section does not apply to claims for health benefits which have been arbitrated under section 65B.525, subdivision 1.

(c) A three-member panel shall review the denial of the claim and report to the commissioner. The commissioner shall establish a list of qualified individuals who are eligible to serve on the panel. In establishing the list, the commissioner shall consult with representatives of the contributing members as defined in section 65B.01, subdivision 2, and professional societies. Each panel must include: one person with medical expertise as identified by the contributing members; one person with medical expertise as identified by the professional societies; and one public member. The commissioner, upon initiation of an arbitration, shall select from each list three potential arbitrators and shall notify the issuer and the claimant of the selection. Each party shall strike one of the potential arbitrators and an arbitrator shall be selected by the commissioner from the remaining names of potential arbitrators if more than one potential arbitrator is left. In the event of multiparty arbitration, the commissioner may increase the number of potential arbitrators and divide the strikes so as to afford an equal number of strikes to each adverse interest. If the selected arbitrator is unable or unwilling to serve for any reason, the commissioner may appoint an arbitrator, which will be subject to challenge only for cause. The party that denied the coverage has the burden of proving that the services or treatment are experimental, investigative, not medically necessary, or not generally accepted by licensed health care professionals. In determining whether the burden has been met, the panel may consider expert testimony, medical literature, and any other relevant sources. If the party fails to sustain its burden,

the commissioner may order the immediate payment of the claim. All proceedings of the panel and any documents received or developed by the review process are nonpublic.

(d) A person aggrieved by an order under this section may appeal the order. The appeal shall be pursuant to section 65B.525 where appropriate, or to the district court for a trial de novo, in all other cases. In nonemergency situations, if the insurer has an internal grievance or appeal process, the insured must exhaust that process before the external appeal. In no event shall the internal grievance process exceed the time limits described in section 72A.201, subdivision 4a.

(e) If prior authorization is required before services or treatment can be rendered, an appeal of the denial of prior authorization may be made as provided in this section.

(f) The commissioner shall adopt procedural rules for the conduct of appeals.

~~(g) The permanent rulemaking authority granted in this section is effective June 2, 1989, regardless of the actual effective date of January 1, 1990.~~

Sec. 17. **EFFECTIVE DATE; APPLICATION.**

Sections 2 to 16 are effective January 1, 2014, and apply to plans of reparation security issued or renewed on or after that date.